

Zoning Board of Appeals Minutes 11/12/2014

MASHPEE ZONING BOARD OF APPEALS NOVEMBER 12, 2014 MINUTES

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, November 12, 2014 at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. The following Board Members were present; Chairman, Jonathan Furbush, Vice Chairman, William A. Blaisdell, Board Members James Reiffarth, and Richard Jodka, and Associate Members Domingo K. DeBarros and Scott Goldstein were present. Building Commissioner Michael Mendoza was also present. Board Member, Ron Bonvie was absent.

Mr. Furbush opened the meeting at 6:00 p.m. and announced the meeting was televised live on local Mashpee television.

CONTINUED HEARINGS

Accidental Auto Body, Inc.: Request a Special Permit under §174-24.C.1 of the Zoning By-laws to allow for an auto body shop with parking, utilities, and landscaping in a I-1 Zoning District at **89 Industrial Drive**, (Map 88 Parcel 27), Mashpee, MA. (Owner of Record: Robert A. Lawton). (Continued from October 22, 2014 Hearings at the request of the Attorney, opened but not heard).

Attorney, Mark Gildea, represented the applicant for the proposed auto body shop. Also present was Anthony Dupuis, owner of Accidental Auto Body of Hyannis, and Raul Lizardi, Engineer for Holmes and McGrath, Inc. of Falmouth. Mr. Gildea stated the Mr. Dupuis is seeking to locate his business and is under a purchase agreement for the proposed property.

The property is within an economic development area designated by the Massachusetts Legislature and found this area is underutilized and encourages economic development in this particular area. The project will help fulfill the EDIC mission of stimulating economic opportunities and fulfill some of the Town's 1998 comprehensive plan by providing the community with a full range of commercial services and facilities. This project will involve an investment of over a million dollars and could anticipate tax revenue of approximately \$10,000 each year.

The proposal submitted to the Board consists of a detailed written narrative, a three page site plan depicting the drainage, grading, utilities, and septic system design of the project. On October 21, 2014, the project was presented to Design/Review Committee, who gave recommendations that are incorporated in the site plan. The Board of Health submitted a letter dated November 10, 2014, stating they approved the site and septic plan with specific conditions. One of the conditions is the spray booth be vented at the North section of the building away from the abutting residential neighborhood. The Health Agent suggested the Board adopt his recommended conditions for the Special Permit.

The project is located adjacent from the Mashpee Water District Building on Industrial Drive, and abuts a residential subdivision that was developed and approved after the creation of the industrial park. The distance from the Mashpee Water District Building to the residential area is 125 feet, and the distance for the proposed building would be 145 feet. Under the bylaw, parking on this proposed project could be within 10 feet of the lot line. The parking spaces depicted on the plan indicate 59 to 60 feet from the abutter's property line. The new owner proposes to push back the existing fence and include a row of evergreen shrubbery to act as a screen.

Attorney Gildea stated the Board of Health requires a tight tank for any discharge in the building. The spray booth is an enclosed building within a building and will be located in the rear, and will be vented toward the front. The products used in the spray booth are waterborne, and the applicant is required to comply with all EPA regulations with a 98% efficiency rating. Matt Denison, of the paint company stated the majority of the paint is waterborne. Floor and spray filters should be changed twice a year. Auto businesses should have a filtration change-out program and generally scheduled with filter companies, and regulated by the EPA.

The proposed building will have four (4) bays, with fifty five (55) parking spaces and four (4) handicapped spaces. The building will meet the required setbacks and will be setback 74 feet from the rear property line.

Mr. Mendoza asked if the spray booth can be relocated to the front and save the applicant the expense of the vent stack. Mr. Gildea stated that the design was approved by the Board of Health.

Mr. Furbush read the letter from the Board of Health, dated November 10, 2014 into the record; "approved the site and septic plan with conditions."

Mr. Furbush announced to the Board that a vote is recommended to acquire the services of Charlie Rowley, Consulting Engineer to review the 89 Industrial Drive project. The Board voted and determined that Charlie's services are not required. Mr. Furbush voted, yes, Mr. Blaisdell voted no, Mr. Reiffarth voted yes, Mr. Jodka voted no, and Mr. DeBarros voted no. (A vote of 3-No and 2-Yes).

Mr. Blaisdell read an email dated October 22, 2014 from Joel Clifford, Mashpee Fire Department, asking for the turning radius diagram, and was supplied to Raul Lisardi-Rivera. "The template appears to be adequate."

Mr. Blaisdell read a letter from the Mashpee Water District into the record; "They have no objection to the owner of 89 Industrial locating parking spaces at the property line", and waive the zoning laws would be contingent on the property owner at 89 Industrial drive to allow vehicles access to Water district parking areas, signed Andrew Marks, Operation Manager, Mashpee Water District at 79 Industrial Drive, Mashpee, MA.

There were several abutters present and spoke against the project and listed as follows:

Mike Walsh, 4 Oxfordshire Place, Mashpee, MA. Concerned about exhaust fumes.

Mr. John Phelan, 90 Dover Road, Mashpee, MA. Concerned about location.

Mr. John L. Fish, 13 Nancy Lane, Mashpee, MA. Concerned about noise, fumes, and location.

Stephen Goddu, 10 Nancy Lane, Mashpee, MA. Concerned about the notice mailing, location, noise, fumes, and property value.

Bill Grossman, 69 Dover Road, Mashpee, MA, Spoke about "Development Agreement for the Mashpee Industrial Park", document dated Feb. 1997, page 7, Item WR4.

Mary Perry, 12 Cransbourne Circle, Mashpee, MA. Concerned about environment.

Maria Walsh, 4 Oxfordshire Place, Mashpee, MA. Concerned about environment.

Brad Holmes, 114 Dover Road, Mashpee, MA, Concerned about environment.

Mr. Furbush read a letter into the record dated November 12, 2014, from Susan Gonye, of 104 Dover Road who is an abutter; *"I am the property owner of 104 Dover Road and an abutter to Industrial Drive. I am writing to say that I do not support the issuance of a special permit under §174-24.C.1 of the Zoning By-laws to Accidental Auto Body Inc. at 89 Industrial Drive. Such a structure and business would affect air quality and would be a source of excessive noise levels. Use and storage of hazardous materials as well as parking lot ground water runoff are also areas of concern. In addition, it would have an adverse effect on neighboring property values including residential abutters as well as the already established businesses and offices on Industrial Drive in Mashpee Executive Park. I do not support the issuance of a Special Permit to Accidental Auto Body, Inc. at 89 Industrial Drive. Sincerely, Susan Gonye"*

After further review, Attorney Gildea found during discussion the document titled; "Development Agreement for the Mashpee Industrial Park dated February 1997" had expired in 2007 as noted on page 19, Item GC6.

Mr. Furbush stated the Town Bylaw requires a list of abutters to be notified within three hundred (300) feet of the subject property, and is certified by the Town Assessor.

Attorney Gildea stated his client installs air conditioning in the entire building. He stated with respect to claims of noise complaints and air quality these are pure speculation.

Attorney Gildea suggested the Board inform applicants within a reasonable time frame regarding consulting engineers and review Zoning rules and regulations.

Mr. Blaisdell made a motion to approve Accidental Auto Body Inc., a Special Permit under §174-24.C.1 of the Zoning By-laws to allow for an auto body shop with parking, utilities, and landscaping in a I-1 Zoning District at 89 Industrial Drive, (Map 88 Parcel 27), Mashpee, MA. (Owner of Record: Robert A. Lawton). The Board conditions this permit based on the recommendations submitted in a letter from the Board of Health, dated November 10, 2014 to Mr. Raul Lizardi-Rivera, P.E., Holmes and McGrath, Inc., regarding 89 Industrial Drive, Mashpee, MA. Also conditioned are recommendations from the Building Commissioner, dated October 22, 2014, and November 10, 2014, a letter dated October 21, 2014 from the Mashpee Water District. Also, referencing a Site Plan; prepared for Accidental Auto Body, Inc., Lot 26, #89 Industrial Drive, Mashpee, MA. Scale: 1" = 2' dated Sept. 24, 2014, by Holmes and McGrath, Inc., 205 Worcester Court, Ste. A4, Falmouth, MA, revised 10/20/2014. Drawn: PJR, RLR, Job No: 214215, Dwg. No.: 88-4-26 Sheet 1 of 3, and stamped by Raul Lizardi-Rivera, P.E.

Mr. Blaisdell, yes, Mr. Jodka, seconded, yes, Mr. Furbush, yes, Mr. Reiffarth, no, and Mr. DeBarros, yes. A passing vote of 4-1 (Mr. Reiffarth voted against).

NEW HEARINGS

Gregory S. Bush, Trustee: Requests a Written Finding under §174-17 & §174-20 of the Zoning By-laws to raze and replace a single-family dwelling located on property in an R-5 Zoning District at 55 Santuit Lane, (Map 30 Parcel 2), Mashpee, MA.

Mr. Bush represented himself regarding his raze and replace project. He is requesting a continuance so he can submit additional documents and information the Board needs. He is seeking to replace his pre-existing 44 x 20 home with a new home in the same foot print. He stated he presented his plan to conservation two years ago to reconstruct the foundation, and spoke to an architect who recommended the building be torn down and replace it with a new home that will conform to current building codes.

Mr. Mendoza told the Board he spoke with Greg and suggested he revise his plans. Mr. Furbush suggested he apply to the Board of Health on December 4, 2014, and will also have to apply with Conservation prior to returning to the ZBA. Mr. Bush said he will speak with Drew McManus regarding his project.

Mr. Blaisdell made a motion to continue Greg Bush's project until December 10, 2014. Mr. Blaisdell, yes, Mr. Jodka seconded, yes, Mr. Reiffarth, yes, Mr. Furbush, yes, and Mr. Goldstein, yes. All were in favor.

Kenneth Konikowski: Requests a modification to the Special Permit (SP-05-49) to extend the second floor deck adding square footage to the structure on property located in an R-3 Zoning District at **95 Whippoorwill Circle** (Map 125 Parcel 152), Mashpee, MA.

Attorney, Kevin Kirrane represented Kenneth Konikowski's request for a minor modification to the special permit to add approximately 60 square feet to their second floor deck. The Board granted a special permit for the end of the deck back in April of this year.

The Board granted a special permit back in 2005 for the original structure and at the time the parcel was situated on 18,950 square feet. The Board indicated they would consider the lot area based upon the distance from the mean high water mark which left the parcel at 16,118 square feet. This is a pre-existing non-conformity surrounded by marsh land, and there is no adverse impact on the wetland resource areas given its location of the second floor deck. Attorney Kirrane stated the structure has not been built yet and was pending Board approval for this new modification.

Mr. Blaisdell made a motion to approve a minor modification to the Special Permit (SP-05-49). Referencing a plot plan titled; Proposed Deck at 95 Whippoorwill Circle, Mashpee, MA, prepared for Kenneth Konikowski, by BSS Design Engineering & Surveying, scale: 1' = 20', dated Jan 27, 2014, drawn EJP, TJB, job number 13249, drawing number P21-128, Revision: Revised proposed deck and lot coverage calculations dated September 8, 2014. Mr. Blaisdell, yes, Mr. Jodka seconded, yes, Mr. Reiffarth, yes, Mr. Furbush, yes, and Mr. Goldstein, yes. All were in favor.

Anne Seminara: Requests a Special Permit under §174-24, and §174-25 (Table of Use Regulations), and §174-41 (Parking Lot Design) to allow for construction of an industrial warehouse building on property located in an I-1 Zoning District at **58 Echo Road**, (Map 19 Parcel 13), Mashpee, MA. (Owner of Record: Michael Umano, Trustee).

Louis J. Seminara Jr.: Requests a Special Permit under §174-24, and §174-25 (Table of Use Regulations), and §174-41 (Parking Lot Design) to allow for construction of an industrial warehouse building on property located in an I-1 Zoning District at **68 Echo Road**, (Map 19 Parcel 14), Mashpee, MA. (Owner of Record: Michael Umano, Trustee).

Attorney, Kevin Kirrane represented Anne Seminara who is proposing to construct a 9,992 square foot metal building. The building could accommodate up to five separate units but will only be constructing two, possibly three units. The parking will accommodate 26 spaces, and 2 handicap spaces. The building conforms to all appropriate setback requirements and buffer zone requirements.

The required setbacks for the proposed building are as follows:

Front yard setback:	75 feet (minimum)
Side yard setback:	30 feet (minimum)
Rear yard setback:	50 feet (minimum)
Building height:	35 feet (minimum)
Lot coverage:	25% (maximum)

The application includes specific Special Permit uses such as; plumbing, electrical or carpentry shops, service or repair establishments (Section 174-25 G (4); wholesale business and storage (Section 174-25 G (6); whole sale business and storage (Section 174-25 G (9); and contractor bay (Section 174-25 G (14). The applicant is proposing to lease the 2,000 square foot Unit #1 to a contractor.

Attorney Kirrane announced that Dan Ojala, Engineer for Down Cape Engineering, Inc. and Charlie Rowley, Consulting Engineer for the Town of Mashpee were present to answer questions relating to the site plan, drainage calculations, grading, utilities, and septic system design of the project.

Dan Ojala stated he presented the project to Design/Review Committee, the Fire Department, approved the turning radius design. He received written advice from the Board of Health to increase the size of the leaching plan. It is not in a Zone 2 of a public well. There's a Zone 2 just to the West, but this is not in any of those zones, so there's no real limit to the size of the system. The Health Department wants to see a septic system if pumping over 600 gallons per day which is an I-A system. He modified the design under 600 gallons to 590 gallons per day. There's no variance needed just a short review and will not be a problem for approval.

Dan mentioned that at Design/Review and reiterated by Charlie Rowley were a few minor issues such as installing solid catch basins similar to other sites that were installed in Mashpee. There will be four solid bays and in case of a petro-chemical spill will flow into a solid contained base that can be easily pumped out.

Mr. Furbush noted that 58 and 68 Echo Road are scheduled with the Board of Health on December 4, 2014.

Mr. Furbush read an email dated November 12, 2014 from Charlie Rowley, to Dan Ojala into the record; "The landscape plans are on the old format for drainage. I think they should be updated to reflect the changes you made." Mr. Ojala stated he will update the plans.

Mr. Furbush read a comment dated November 10, 2014 from Mike Mendoza, Building Commissioner into the record; "Will need to file control construction"; (definition of control construction is Building Code Requirement.)

Mr. Furbush read comments from all departments at Design/Review meeting dated October 21, 2014.

Mr. Rowley stated he needs the drainage calculations and will need to review them. He suggested a 100-year storm drainage calculation to make sure there is no off-site impact. He would like to see the ramps and steps in front of the doors to be concrete instead of asphalt to avoid water running underneath the doors. It's a client preference. He also wanted confirmation of the number of parking spaces at #58 Echo Road. The 6" water line that runs across the property boundary and the access way between the two lots. As long as both properties are owned by the applicants, there should be no problem. There should be an indication on the plans that there is an easement for the water main, and also for the joint access across the property boundaries. If there's a change in ownership there could be an issue. He will provide a letter to the Board with all his recommendations.

Attorney Kirrane stated there will be a written easement document between the two lots, and will be addressed.

Mr. Blaisdell made a motion to approve Anne Seminara's request for a Special Permit under §174-24, and §174-25 (Table of Use Regulations), and §174-41 (Parking Lot Design) to allow for construction of an industrial warehouse building on property located in an I-1 Zoning District at 58 Echo Road, (Map 19 Parcel 13) Mashpee, MA. This approval is conditioned upon Board of Health approval for 58 Echo Road, meeting on December 4, 2014 and conditioned upon receiving a letter from Charlie Rowley, assuring the Board that all his remarks listed are completed and approved, clarification from Fire Department regarding the "fire lane" comment, and revising the Landscape Plans. Referencing a Site Plan titled; #58 Echo Road, Mashpee, MA, prepared for Anne Seminara, dated September 26, 2014, revised 11/11/2014 with Town Comments, prepared by Down Cape Engineering, Inc., 939 Main St. (Rte. 6A), Yarmouthport, MA. Stamped by Daniel A. Ojala No. 40980.

Mr. Blaisdell, approved, yes, Mr. Reiffarth, seconded, yes, Mr. Furbush, yes, Mr. Jodka, yes, and Mr. Goldstein, yes. All were in favor.

Attorney, Kevin Kirrane, represented Lewis Seminara who is proposing to construct a 9,980 square foot building at 68 Echo Road and to utilize this building for special permit uses as noted in the application. It's a 60,000 square foot lot with 200 feet of frontage along Echo Road, is approximately 165 feet long and 60 feet wide. The plan depicts a building design up to eight (8) individual bays that are 1,200 square feet each and are typical contractor bays. This building will be built to conform to the appropriate setbacks as indicated in 58 Echo Road.

Mr. Furbush stated the same comments apply for the record as indicated in 58 Echo Road by the various Boards at the Design/Review meeting dated October 21, 2014. The Board of Health application for December 4, 2014, and the Building Commissioner; "68 Echo Road will need to file Controlled Construction Application," and an updated landscape plan needs to be re-submitted.

Mr. Ojala will update the site plan showing updated plantings and will introduce some fill to the landscape grades.

There was a question regarding the comments from the Fire Department of the “fire lane”. Mr. Ojala stated he will speak with the fire inspector regarding this comment.

Charlie Rowley said the same questions apply for 68 Echo Road as applied with 58 Echo Road.

Mr. Blaisdell made motion to approve Louis Seminar’s request for a Special Permit under §174-24, and §174-25 (Table of Use Regulations), and §174-41 (Parking Lot Design) to allow for construction of an industrial warehouse building on property located in an I-1 Zoning District at 68 Echo Road, (Map 19 Parcel 14) Mashpee, MA. This approval is conditioned upon Board of Health approval meeting on December 4, 2014, and conditioned upon receiving a letter from Charlie Rowley, assuring the Board that all the remarks listed are completed and approved, clarification from Fire Department regarding the “fire lane” comment, and revising the Landscape Plans. Referencing a Site Plan titled; #68 Echo Road, Mashpee, MA, prepared for Louis Seminara, dated September 26, 2014, revised 11/11/2014 with Town Comments, prepared by Down Cape Engineering, Inc., 939 Main St. (Rte. 6A), Yarmouthport, MA. Stamped by Daniel A. Ojala No. 40980.

Mr. Blaisdell, approved, yes, Mr. Reiffarth, seconded, yes, Mr. Furbush, yes, Mr. Jodka, yes, and Mr. Goldstein, yes. All were in favor.

OTHER BUSINESS

Mashpee Commons LP: Will present current status of the Market Street road construction and the foundations required for permit compliance.

Mr. Tom Feronti, represented Mashpee Commons LP to give the Board and update regarding the Market Street Extension Project. He stated they are waiting for NSTAR and National Grid to confirm locations of underground utilities. He will be meeting with NSTAR next week. The plan is to get the road paved and get curbing installed before winter. The asphalt plants are open until Christmas time and should be on schedule. He also wanted to discuss the foundations to be installed. They have concrete contractors lined up and will inform the Building Commissioner next week and plan to have the foundations in the ground for the expiration date of November 30, 2014.

Job-Fishing Road will remain as is until plans are advanced further. The transformers were installed and can be easily connected.

Charlie Rowley will revisit the location to check the curbs and grades are set properly. He does not need to check the utilities.

Mr. Blaisdell, made a motion to approve October 22, 2014 meeting minutes, Mr. Furbush seconded, yes, Mr. Jodka yes, Mr. Goldstein, yes. All were in favor.

Mr. Reiffarth made a motion to adjourn, Mr. Furbush, seconded, yes, Mr. Blaisdell, yes, Mr. Jodka, yes, and Mr. Goldstein, yes. All were in favor.

Respectfully submitted,

Mary Ann Romero
Administrative Secretary
Zoning Board of Appeals